IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3394 of 2007()

(CRIME NO. 321/2007 of NEDUPUZHA POLICE STATION)

PETITIONER: ACCUSED NO.1 TO 4

1. SUNIL KUMAR,S/O.MADHAVAN EZHUTHASSAN
THEKKEMEPPULLY HOUSE, P.O.AVINNISSERY,
THRISSUR.

2. MADHAVAN EZHUTHASSAN,
THEKKEMEPPULLY HOUSE, P.O.AVINNISSERY,
THRISSUR.

3. KANAKAMANI, W/O,MADHAVAN EZHUTHASSAN,
THEKKEMEPPULLY HOUSE, P.O.AVINNISSERY,
THRISSUR.

4. SAJEEV KUMAR,S/O.MADHAVAN EZHUTHASSAN,
THEKKEMEPPULLY HOUSE, P.O.AVINNISSERY,
THRISSUR.

BY ADV. SRI.M.B.PRAJITH

RESPONDENTS: COMPLAINANT

1. SINI AGED 26 YEARS
D/O. MADHAVAN, PUTHUPULLY HOUSE
THOTTIPAL VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

2. STATE OF KERALA
REP BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

BY ADV. SRI.SURAJ.S
SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3394 of 2007

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Dated this the 12th day of November, 2007

ORDER

The petitioners face allegations in a crime registered at the Nedumpuzha Police Station as Crime No.321/2007 for offences punishable, inter alia, under Section 498A I.P.C. The said crime has been registered on the basis of a private complaint filed by the 1st respondent before the learned Magistrate and referred by the learned Magistrate to the Police under Section 156(3) Cr.P.C. First petitioner is the husband of the de facto complainant and the petitioners 2 and 3 are parents in law and 4th petitioner is the brother in law of the de facto complainant. Investigation is in progress.

2. The petitioners along with the 1st respondent have now come before this court with a request that the FIR registered and all proceedings initiated against the petitioners may be quashed in asmuch as the petitioners and the 1st respondent have settled their disputes and the 1st respondent has compounded the offences alleged against the petitioners.

3. The 1st respondent has also entered appearance

through counsel. The counsel confirms that the matter has been settled. An affidavit dated 25.10.07 duly attested has been filed by the first respondent, to confirm that the matter has been settled and that she has compounded the offences alleged against the petitioners. The spouses have agreed to dissolve the marriage and a joint application for divorce under Section 13B of the Hindu Marriage Act has already been filed also, it is submitted and accepted by both sides.

4. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor also accepts that the matter has been settled and the State has no objection and agrees to the quashing of the further proceedings invoking the powers under Section 482 Cr.P.C.

5. However, the offence under Section 498A I.P.C is not compoundable as per the stipulations under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that interest of justice may at times transcend the interests of mere law and on such occasions, the stipulations of Section 320 Cr.P.C. cannot be reckoned a fetter on the width, sweep and amplitude of the

powers under Section 482 Cr.P.C.

6. I am satisfied, from the totality of the circumstances, that the parties have settled their disputes and the 1st respondent has compounded the allegations against the petitioners. This, I am satisfied, is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can or ought to be invoked.

7. In the result, this Criminal Miscellaneous Case is allowed. Crime No. 321 of 2007 registered at the Nedumpuzha Police Station and all further proceedings in pursuance of the said crime registered against the petitioners is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE